

ENTERED

December 16, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAKE HENRY OGLESBY, TDCJ
#01966148, a/k/a/ MISTY VIOLET,

Plaintiff,

VS.

CORRECTIONAL MANAGED HEALTH §
CARE DIRECTOR(S) AND COMMITTEE §
MEMBER(S) (2020-2021), *et al.*, §

Defendants.

§ § § § §

CIVIL ACTION NO. H-22-03753

ORDER OF DISMISSAL WITHOUT PREJUDICE

Plaintiff Jake Henry Oglesby, a/k/a Misty Violet (TDCJ #01966148), an inmate in the Texas Department of Criminal Justice (TDCJ), filed a lengthy complaint under 42 U.S.C. § 1983 alleging violations of the United States Constitution and federal law regarding TDCJ and medical providers' policies for treating gender dysphoria. Because the pleadings were conclusory and failed to comply with Federal Rule of Civil Procedure 8, the Court struck the pleadings and ordered Oglesby to file an amended complaint within 30 days.

Oglesby recently filed a response, explaining that the original inmate who was helping Oglesby has been transferred to another unit. The response also states that a second inmate, Ms. Bobbie Lee Haverkamp, presently has a case pending in the Corpus Christi

Division that parallels the claims in this case. *See Haverkamp v. Penn, et al.*, Civ. A. No. 2:17-cv-18 (S.D. Tex. 2017). Oglesby sets forth a few options for how to proceed because she is unable to answer the Court at this time. Among other things, Oglesby suggests that the Court dismiss this case without prejudice until the *Haverkamp* case is heard. Doc. No. 13 at 3. The Court construes this as a motion for voluntary dismissal under Federal Rule of Civil Procedure 41(a).

As a general rule, motions for voluntary dismissal should be freely granted unless the non-moving party will suffer some plain legal prejudice other than the mere prospect of a second lawsuit. *See Elbaor v. Tripath Imaging, Inc.*, 279 F.3d 314, 318 (5th Cir. 2002) (citing *Manshack v. Southwestern Elec. Power Co.*, 915 F.2d 172, 174 (5th Cir. 1990)). No defendants have been served, and this case does not have a live pleading pending review at this time. It does not appear that the defendants will suffer plain legal prejudice if the Court grants this motion. Further, although the plaintiff was granted leave to proceed *in forma pauperis*, no payments have been made to date in this case.

Therefore, the Court **ORDERS** as follows:

1. The plaintiff's motion for voluntary dismissal (Doc. No. 13) is **GRANTED**, and this case is **DISMISSED** without prejudice under FED. R. CIV. P. 41(a).
2. The Court's order granting leave to proceed *in forma pauperis* and ordering the collection of the filing fee (Doc. No. 11) is **VACATED**, and no further payments shall be collected. Payments that have been made, if any, will not be refunded.

3. All other pending motions, if any, are **DENIED** as **MOOT**.

The Clerk will send a copy of this Order to the parties.

SIGNED at Houston, Texas, this 15th day of December 2022.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', written over a horizontal line.

ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE